

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CHANEL INC., et al.,	)	
	)	
Plaintiff(s),	)	No. C09-1972 BZ
	)	
v.	)	<b>ORDER DENYING DEFENDANT'S</b>
	)	<b>MOTION TO STRIKE</b>
TONY BOSINI, et al.,	)	
	)	
Defendant(s).	)	
	)	
	)	

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Before the Court is defendant's motion to strike plaintiff's request for the transfer of certain domain names from the complaint.

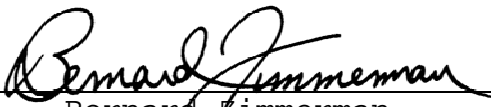
"[A] motion to strike may be used to strike any part of the prayer for relief when the damages sought are not recoverable as a matter of law." Bureerong v. Uvawas, 922 F.Supp. 1450, 1479, n. 34 (C.D.Cal.1996). Motions to strike are generally viewed with disfavor and are not frequently granted. See Clement v. American Greetings Corp., 636 F.Supp. 1326, 1329 (S.D.Cal.,1986). Courts must view the pleading under attack in the light most favorable to the pleader. Bureerong, 922 F.Supp. at 1462.

1 Defendant's sole argument in support of his motion is  
 2 that plaintiff did not allege a violation of 15 U.S.C.  
 3 § 1125(d).<sup>1</sup> However, defendant did not argue or persuade me  
 4 that Section 1125(d) is the exclusive means by which a court  
 5 can transfer domain names in the exercise of its inherent  
 6 equitable powers. For example, defendant has not responded to  
 7 plaintiff's argument that it may seek the requested relief  
 8 under 15 U.S.C. § 1116.

9 The balance of defendant's motion discounts the  
 10 applicability of Philip Morris USA, Inc. V. Otamedia Limited,  
 11 331 F.Supp. 2d 228 (S.D.N.Y. 2004). While it may be true that  
 12 plaintiff's proof will not rise to the level found in Philip  
 13 Morris, that case undermines defendant's position that such  
 14 relief is unavailable as a matter of law.<sup>2</sup>

15 Defendant has not established that plaintiff is not  
 16 entitled to the relief it seeks "as a matter of law."  
 17 Bureerong, 922 F.Supp. at 1479, n. 34. Defendant's motion to  
 18 strike is therefore **DENIED**. Defendant is **ORDERED** to file an  
 19 answer by **FEBRUARY 5, 2010**.

20 Dated: January 19, 2010

21   
 22 Bernard Zimmerman  
 23 United States Magistrate Judge

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25 <sup>1</sup> Section 1125(d) prohibits cybersquatting and  
 26 authorizes the transfer of domain names as a remedy.

27 <sup>2</sup> "Once a right and a violation have been shown, the  
 28 scope of a district court's equitable powers to remedy past  
 wrongs is broad[.]" Swann v. Charlotte-Mecklenburg Bd. Of  
Educ., 402 U.S. 1, 15 (1971).